National Labor Relations Board



Weekly Summary of NLRB Cases

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<u>C A S E S S U M M A R I Z E D</u> VISIT WWW.NLRB.GOV FULL TEXT

Laborers' Eastern Region Organizing Fund	Mt. Sinai, NY	1
Professional Medical Transport, Inc	Tempe, AZ	1
TNT Logistics North America, Inc.	Janesville, WI	2

OTHER CONTENTS

<u>List of Decisions of Administrative Law Judges</u>	3
<u>List of Unpublished Board Decisions and Orders in Representation Cases</u>	3

- Contested Reports of Regional Directors and Hearing Officers
- Uncontested Reports of Regional Directors and Hearing Officers
- Miscellaneous Board Orders

Press Release (<u>R-2588</u>): Linda Dreeben Names Assistant General Counsel for the NLRB's Supreme Court Branch

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Laborers' Eastern Region Organizing Fund (29-CC-1422, 22-CP-662; 346 NLRB No. 105) Mt. Sinai, NY April 28, 2006. The administrative law judge found, and the Board agreed, that the Respondent violated Section 8(b)(4)(i) and (ii)(B) of the Act by picketing at The Ranches in Mt. Sinai, New York, from Oct. 28 through Nov. 6, 2002, with an object of forcing The Ranches to cease doing business with Concrete Structures, Inc. (CSI), and violated Section 8(b)(7)(C) by picketing at the Mills Pond Elementary School in Smithtown, New York, Haborview Townhouses in Roslyn, New York, and at The Ranches in Mt. Sinai, New York for a recognitional object for more than a reasonable amount of time. [HTML] [PDF]

Throughout 2002 the Respondent made monthly demands for recognition to CSI's president who refused the demands. In July 2002, while CSI was engaged in a project at the Mills Pond Elementary School, the Respondent's agents attempted to put a 15-foot inflated rat at the entrance of the school. The Respondent repeated this activity in September at Harborview Townhouses with a 30-foot tall rat and again on October 28 at the main entrance where CSI was performing work for The Ranches in Mt. Sinai. The judge found that the Respondent's conduct at the jobsites amount to picketing and, in this context, found that the Respondent's demand that The Ranches use a "responsible" contractor was equivalent of asking The Ranches to sever its relationship with CSI.

The Board determined that the Respondent's activity had a secondary objective aimed at a neutral, The Ranches, in pursuit of a recognitional dispute with primary CSI. It further agreed with the judge's conclusion that the Respondent's recognitional picketing intermittently conducted at the three separate jobsites over a period covering 4 months was unreasonable, even through the picketing occurred on only 28 specific days during that period.

Having found that the Respondent's protest activities at The Ranches constituted unlawful picketing, the Board deemed it unnecessary to consider the further implications of the Respondent's use of an inflated rat, and did not pass on the judge's conclusion that the Respondent's deployment of the rat itself constituted signal picketing.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by The Ranches at Mt. Sinai and Concrete Structures, Inc.; complaint alleged violation of Section 8(b)(4)(i) and (ii)(B) and 8(b)(4) and (7)(C). Hearing at Brooklyn, Feb. 28 and March 1-2, 2005. Adm. Law Judge Steven Davis issued his decision June 14, 2005.

Professional Medical Transport, Inc. (28-CA-18554, 18563; 346 NLRB No. 108) Tempe, AZ April 28, 2006. The Board adopted the recommendations of the administrative law judge and found that the Respondent violated Section 8(a)(1) of the Act by coercively interrogating an employee about his and other employees' activities on behalf of Emergency Medical Technicians and Paramedics, soliciting employee complaints and grievances and promising to remedy them, promising an employee a promotion in order to discourage his supporting the Union, threatening an employee that it could go bankrupt if employees selected the Union as their collective-bargaining representative, offering to remedy employee problems without the Union's assistance,

and threatening employees with possible job loss if employees selected the Union. It also agreed with the judge that by discharging supervisor Glenn Brown because he refused to commit unfair labor practices, the Respondent violated Section 8(a)(1). [HTML] [PDF]

(Members Schaumber, Kirsanow, and Walsh participated.)

Charges filed by Glenn Brown, an Individual and Emergency Medical Technicians and Paramedics, NAGE-SEIU; complaint alleged violation of Section 8(a)(1). Hearing at Phoenix, July 14-15, and Oct. 15-17, 2003. Adm. Law Judge Mary Miller Cracraft issued her decision Feb. 6, 2004.

TNT Logistics North America, Inc. (30-CA-16801-1; 346 NLRB No. 109) Janesville, WI May 4, 2006. The Board affirmed the administrative law judge's finding and held that the Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Auto Workers concerning the effects on employees of its closing of its Janesville, Wisconsin facility. It further agreed with the judge, for the reasons stated in his decision, that a remedial order consistent with *Transmarine Navigation Corp.*, 170 NLRB 389 (1968), is appropriate. [HTML] [PDF]

The Respondent performed logistic services for the General Motors plant in Janesville. After GM rejected the Respondent's bid to continue performing the work and awarded the work to a competitor, Logistic Services, Inc. (LSI), the Respondent announced on Jan. 28, 2004 that it would close the facility and permanently lay off all employees in approximately 60 days (March 31) and sent a letter to the Union about the closure. On Feb. 2, the Union's International Representative, Roger Anclam, requested that the Respondent bargain over the effects of the Respondent's closing its facility. At a meeting held March 19, the Respondent claimed that it had no obligation to bargain for a closing agreement because LSI was a successor to the Respondent. The Respondent also stated that if the Union did not agree with the successorship position, the Respondent would file an unfair labor practice charge against the Union.

In finding that the Respondent committed unfair labor practices, the Board cited *First National Maintenance Corp. v. NLRB*, 452 U.S. 666, 681-682 (1981), stating that Section 8(a)(5) of the Act requires bargaining "in a meaningful manner and at a meaningful time" over the effects of a decision to close a facility. It also stated that the existence of a successorship situation does not relieve an employer of its obligation to engage in effects bargaining. See, e.g., *Sierra International Trucks, Inc.*, 319 NLRB 948, 949 (1995).

(Chairman Battista and Members Schaumber and Walsh participated.)

Charge filed by Auto Workers; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Milwaukee, April 20 and 21, 2005. Adm. Law Judge Martin J. Linsky issued his decision Aug. 9, 2005.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Interstate Chemical Co., Inc. (Food & Commercial Workers Local 211-C) Hermitage, PA May 3, 2006. 6-CA-34661, 34696; JD-29-06, Judge Martin J. Linsky.

Leiser Construction, LLC (Iron Workers Local 10) Madison, KS May 3, 2006. 17-CA-23177; JD(ATL)-08-06, Judge Lawrence W. Cullen.

Five Star Manufacturing, Inc. (Teamsters Local 245) Crane, MO May 4, 2006. 17-CA-22626, et al.; JD(ATL)-15-06, Judge John H. West.

St. John's Community Services – New Jersey (Communications Workers Local 1037) Hamilton, NJ May 4, 2006. 22-CA-26934; JD(NY)-19-06, Judge Steven Davis.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION, ORDER AND DIRECTION OF SECOND ELECTION

Suburban Energy Services, Exton, PA, 4-RD-2060, May 3, 2006 (Chairman Battista and Members Kirsanow and Walsh)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND DIRECTION [that Regional Director open and count challenged ballots

C & C Roofing Supply, Phoenix, AZ, 28-RC-6417, May 2, 2006 (Chairman Battista and Members Kirsanow and Walsh)

Miscellaneous Board Orders

ORDER [granting special permission to appeal from Regional Director's determination to conduct election by mail ballot and denying appeal on the merits]

People Care, Inc., New York, NY, 29-RC-11322, May 3, 2006 (Chairman Battista and Members Kirsanow and Walsh)
